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In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1384

ARDAC, INC.; ADVANCE AUTOMATIC SALES CO., INC.; STANDARD CHANGEMAKERS, INC.; and PACIFIC NIK-O-LOK CO., INC.,

Petitioners,

vs.

MICRO-MAGNETIC INDUSTRIES, INC.,

Respondent.

Brief in Opposition to Petition for Writ of Certiorari

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Respondent prays that the Petition for Writ of Certiorari be denied because the case presents only a factual issue which was considered completely below and decided unanimously by both of the lower Courts.

The Petition is directed at the factual question of whether or not the patent claims define the invention. The District Court considered the matter extensively and made extensive findings of fact (Petition Appendix A, Pages v-ix) describing the invention in relation to the claims.

The findings of the District Court refer to the very same elements which are recited as the elements of the invention in the claims.

The matter was considered extensively by the Court of Appeals. While the Court of Appeals had taken up the case for examination out of its turn because of the economic importance of delay to Respondent, the Court of Appeals had the case under submission for over six months. The decision of the Court of Appeals was unanimous and adopted the trial court's opinion completely.

Petitioner attempted further delay seeking rehearing en banc. Not a single Judge on the Court of Appeals for the Ninth Circuit requested a rehearing en banc. Now the Petition for Writ of Certiorari has been filed on the very last day permitted.

This type of case does not warrant attention of the Supreme Court of the United States. There is no conflict among the Circuits. There is not even any conflict among the Judges below. There is no case with a related issue pending before this Court. There is no important issue of law. The case merely raises a factual issue of whether or not a particular invention is defined by the claims in the patent, and no allegation has been made that the particular invention is of paramount importance to any industry or major segment of society.

This is simply a case of a dissatisfied civil litigant grasping at the last straw, and the Petition should be denied.

KARL A. LIMBACH
Attorney for Respondent